

**REGULAR SESSION OF THE
BRIGHAM CITY COUNCIL
SEPTEMBER 30, 2010**

PRESENT:	Dennis Fife	Mayor
	Scott Ericson	Councilmember
	Ruth Jensen	Councilmember
	Bob Marabella	Councilmember
ALSO PRESENT:	Rick Bosworth	Human Resource Coordinator
	Dave Burnett	Public Power Director
	Mary Kate Christensen	City Recorder
	Blake Fannesbeck	Public Works Director
	Brett Jones	City Engineer
	Paul Larsen	Economic Development Director
	Bruce Leonard	City Administrator
	Kirk Morgan	City Attorney
	Jason Roberts	Finance Director
	Paul Tittensor	Chief of Police
EXCUSED:	Bruce Christensen	Councilmember
	Tyler Vincent	Councilmember

The Reverence Period was given by Pastor Dave Heister of the Aldersgate United Methodist Church. The Pledge of Allegiance was recited. A motion to approve the minutes of September 16, 2010 as written was made by Councilmember Jensen. The motion was seconded and carried.

Mayor Fife excused Councilmember Christensen and Councilmember Vincent. Councilmember Christensen's wife recently passed away. The Mayor asked for a moment of silence to honor her.

**PUBLIC COMMENT
CONSENT**

New Hire, Administration
Appointment of City Treasurer

PUBLIC HEARINGS

Consider Potential Projects for Which Funding May Be Applied Under the Community Development
Block Grant Small Cities Program for the Program Year 2011

SCHEDULED DELEGATION

National Domestic Violence Month
Request for Approval of 911 Center Budget

NEW BUSINESS

Request for Approval of Ordinance Adopting Restrictions on the Manufacture, Distribution,
Possession or Use of Synthetic Cannabinoids
Discussion on Youth Empowerment Team Funding
Request for Amendment to Deferral Agreement with Thomas Development
Recommendation from the Airport Advisory Board Regarding Hiring of Consultant for Airport Master
Plan
Removal of 4-Way Stop Signs at 200 South and 200 West/Warrant Study of 700 South 200 West
Capital Improvement Project 25-Year Plan

MAKING LIFE BETTER - DEPARTMENT REPORTS

Update on Automated Water Meter Process

OTHER BUSINESS

PUBLIC COMMENT

Brad Barber, Members First Credit Union and Scott Webber, Box Elder Credit Union - Mr. Barber read a proclamation declaring October 17-23 as International Credit Union Week. He added that the credit unions in Brigham City appreciate the opportunity to serve and be a part of the community in many ways besides just financial services.

Mayor Fife and Kirk Morgan - Mayor Fife said there was an article in the Ogden Standard regarding Brigham City's Free Speech Ordinance. The article was a distortion of what the ordinance is about. It made it sound

like the City does not understand the constitution. He asked Mr. Morgan to give a statement on the ordinance. Mr. Morgan stated that the article's first message was that Brigham City is somehow restricting speech. No where in the ordinance is there anything about restricting speech. He and all elected and appointed officials have sworn an oath to uphold the constitution, not to prohibit individuals from restricting any type of speech. The article incorrectly states that the ordinance disallows spontaneity, or the opportunity to spontaneously go out in the street and protest. What it failed to state was that the ordinance specifically allows an exception for that specific purpose. It allows spontaneity in certain situations. The City never wants to prohibit individuals from speaking their mind. The City will allow this by anyone, anytime, on any street. The Free Speech Ordinance's intent is to govern resources so the City is able to protect both those that are protesting as well as those that are trying to go about their daily lives. The ordinance allows individuals time during large events to have a public area where they can voice their concerns close to individuals they want to influence and also allow City staff, police and other resources the ability to know how many people are coming to those events. This ordinance is for large events only, not for spontaneous protestors. The Ogden Standard failed to state that Free Speech Ordinances are in place all over the country. Brigham City is not the first City in Utah to pass a Free Speech Ordinance. Brigham City's ordinance was drafted almost word for word with the Draper City ordinance. This is not a unique situation. Free Speech Zones ironically started in the very conservative City of San Francisco. The only thing the City is trying to do with this ordinance is to allow time, place and matter of restriction on these events so individuals are not disrupted from their daily lives and the protestors are protected and given an opportunity to protest in areas sufficient for these large groups. He added that the Ninth Circuit Court, the most liberal judicial circuit in the United States, has upheld Free Speech Zones. In a civil case of the World Trade Organization in Seattle, the ACLU tried to overturn a Free Speech Zone when there was a World Trade Organization event in Seattle. The Ninth Circuit Court of Appeals upheld it, stating that throughout the country there has been time, place and matter restrictions on free speech. A person cannot yell fire in a crowded area. A person cannot state they are going to have a parade down Brigham City Main Street in the middle of the day without a permit. Through this ordinance the City is only asking that these be organized events so the City's services can allow them to protest as they see fit and also allow protection to the public and other individuals. The article missed all the points the City is trying to cover with this ordinance.

Mayor Fife added that there are no designated zones per se. It depends on where the individuals want to be and how the City can handle the situation.

Tammy Reynolds - Ms. Reynolds stated that she is a Lakeview parent of two students. The Council will be considering removal of the recently installed 4-way stop at the intersection of 200 West and 200 South. She thanked the City for taking action to install a 4-way stop the week before school started. The City responded quickly to address student's safety, especially considering the challenges faced because school boundary changes were made late in the spring. The City made the correct decision and she hated to see that decision be reversed based on the observation that the intersection initially has not had high student traffic. There is a need for the 4-way stop. It slows down high school traffic during school hours and regular traffic throughout the day. With the new school boundaries and the current walking route for Lakeview, the potential for crossing on 200 South for students remains. Secondary students also walk in this area to get to the intermediate, middle and high schools. With only a crosswalk in place, traffic may not stop for students trying to cross. She did not see the harm in leaving the 4-way stop as is. She added that she appreciates that the City is doing a traffic study on the intersection of 700 South and 200 West. She is hopeful that this will result in increased student safety in that area.

There were no further comments from the public.

CONSENT

New Hire, Administration

It was recommended Derek Oyler be hired as Payroll Coordinator, Grade 51, effective October 1, 2010. This action also reclassifies the position from exempt to non-exempt since this position will no longer supervise employees.

Appointment of City Treasurer

It was recommended Diane Reichard be appointed as City Treasurer, Grade E54 effective October 1, 2010. As part of this action, the City Treasurer position will be reclassified from non-exempt to exempt. The City Treasurer will now supervise at least two full-time equivalent employees.

Councilmember Jensen noted that the City did try to hire from within. There were two City applicants and they were both interviewed.

MOTION: A motion to approve the Consent Agenda was made by Councilmember Ericson, seconded by Councilmember Jensen and unanimously carried.

The City Recorder administered the Oath of Office to Ms. Reichard.

PUBLIC HEARING

Consider Potential Projects for Which Funding May Be Applied Under the Community Development Block Grant (CDBG) Small Cities Program of the Program Year 2011

Mr. Rick Bosworth came forward and stated that the purpose of this public hearing is to gain input from citizens on projects they want considered for application for funding through CDBG. In 2011 approximately \$700,000 is expected to be available in the Bear River Region for CDBG projects, \$450,000 of which will be available for projects which will be rated and ranked. All funds allocated must meet HUD national objectives and benefit low to moderate income divisions. Projects displacing low to moderate income persons are not likely to receive funding. The range of projects that are eligible include infrastructure projects or improvements for water and sewer, fire station, street improvements of the service projects for seniors, youth, spouses and housing rehabilitation projects. Some of the past projects include the elevator at the Senior Center, ADA curb ramps throughout the City, office and remodeling at the Bear River Mental Health Building, housing rehabilitation, evaporated coolers at the Boys & Girls Club, and additional storage at the Box Elder Community Pantry.

A motion to open the public hearing was made by Councilmember Marabella, seconded by Councilmember Jensen and unanimously carried.

Katy Bonds, Family Support Center - Ms. Bonds said they would like to propose a project to upgrade their facility.

David Schuster, Neighborhood Nonprofit - Mr. Schuster said they will be requesting the next phase of the Brigham City Neighborhood Improvement Project, sponsored by Brigham City and administrated by Neighborhood Nonprofit. They are requesting \$100,000. The purpose of the project is to help low income homeowners with home improvements. They have completed two phases, one in 2005 and another in 2008. There were twelve in each phase. In 2008 they received 28 applications but only 12 were ranked high enough and they ran out of money. It is based on a scoring system based on income, family size, whether they are disabled or seniors. The repairs have varied and included windows, roofing, new electrical system, concrete work. Homeowners are required to put in sweat equity based on the amount they receive.

Paul Larsen, Director of the Brigham City Redevelopment Agency - Mr. Larsen proposed that the RDA apply for CDBG funds to demolish structures in RDA #2.

A motion to close the public hearing was made by Councilmember Marabella, seconded by Councilmember Ericson and unanimously carried.

SCHEDULED DELEGATION

National Domestic Violence Month

Annette MacFarlane, Executive and Program Director from the New Hope Crisis Center, came forward and presented a proclamation declaring October National Domestic Violence Month. Through August 31, 2010 the Crisis Center has had 853 women and ten men come to them for services. They have also assisted 346

children that were direct victims of domestic violence. If the number of children assisted for secondary victims of domestic violence were added to that number, it would more than double. They are seeing an increase in the level of violence. When she started at the Center four years ago, most of the people came to the Center with no injuries. In 2010, 42% have come with injuries, 22% have required medical attention and 3% had to be hospitalized. So far this year there have been 197 children that have been physically abused, 64 have been abused sexually.

Request for Approval of 911 Center Budget

Mr. Scott Wolford approached the Council and asked for an extension of the cooperative agreement between Brigham City, Box Elder County and the State of Utah in funding the local 911 Center. In 2007 the Board requested that two additional dispatchers be funded. In 2008 the County funded for another dispatcher. This year they agreed to pay for half a position. The additional costs this year is to fund the remaining amount for another dispatcher.

MOTION: Councilmember Ericson made a motion to authorize 911 funds be transferred to be used for Consolidated Dispatch and authorize the Mayor to sign the cooperative agreement. The motion was seconded by Councilmember Jensen and carried unanimously.

NEW BUSINESS

Removal of 4-Way Stop Signs at 200 South and 200 West/Warrant Study of 700 South 200 West

Mr. Fonnesbeck and Chief Tittensor came forward and stated that the City was told that due to the new school boundaries, there would be 40-60 students that would be using the 200 South and 200 West intersection. Based on this information the City moved forward with a 4-way stop at this intersection. However, the children are not using this crossing. The Chief said the Police Department has watched the intersection and there are a lot of cars, but they have not seen a child use the intersection going north or south bound. Residents in the neighborhood have also watched for him and they agree that the children are not using the intersection. There has not been an official warrant study conducted.

Mayor Fife said the City has received letters from parents expressing concern with removal of the stop signs. They have been taking their children to school because they are new to the school and do not know other children to walk with. One parent said they have not allowed their child to walk to school because of the danger at the intersection of 700 South 200 West.

Mr. Leonard, the City's Risk Manager, said the City is looking at two issues - a 4-way stop which is separate from a school walk crossing zone. The crossing zone does not meet warrant because there are no children using it. The federal and state law says that it is based on projection and counts. It was anticipated there would be a lot of children using that intersection but there is not.

The problem with doing a 4-way stop without a warrant study is that 4-way stop collisions are usually very serious because they are usually broadside collisions. If there is an injury accident at this intersection, they will try to find a loop hole in how the City went through the process and then they can sue the City, which ends up being a cost to the citizens. Mr. Leonard recommended conducting a 4-way stop warrant.

Councilmember Ericson said as a parent with elementary children, he would not send his children to 200 South, knowing they would have to cross 700 South without a parent. He did not feel the City will get an accurate count of how many students will use it until both intersections are safe.

Councilmember Jensen felt the City should do the study for 700 South and 200 West but keep the 4-way stop there and study the intersection at 700 South further.

Mr. Fonnesbeck reported that a traffic study has been ongoing this week at 700 South 200 West. They will analyze the study and based on the number of children, the gaps, and the numbers of cars, they determine whether it qualifies for a reduced speed zone. If it does, it will qualify for flashing lights and a possible crossing guard. It is already a school crosswalk zone. This information should be back in a week.

Mayor Fife clarified that the City can put crossing guards at this intersection now, but it would be without the reduced speed and lights. One concern is the funding of a crossing guard. There have not been any parents or any volunteers come forward to do that. The City recently held training for crossing guards but Lakeview did not participate.

MOTION: Councilmember Marabella made a motion to table this item until October 7 when the warrant study will be back and the Council will have more information to make a decision. Mayor Fife recommended waiting until the warrant study is completed at 700 South and changes are made based on the study. The motion was seconded by Councilmember Ericson. Councilmember Jensen stated that she understands that there is a risk for the City, as Mr. Leonard explained, but there is also a risk if the City takes out the signs too early and a child gets injured or killed. The motion unanimously carried.

Request for Approval of Ordinance Adopting Restrictions on the Manufacture, Distribution, Possession or Use of Synthetic Cannabinoids

Youth City Councilmember Eliza Taylor, Chief Tittensor and Kirk Morgan came to the table. Youth Councilmember Taylor explained that there is a drug called Spice, but is also called Black Momba, K2, Puff and Sugar Sticks. It is a central nervous system depressant and slows down the body. It is a synthetic drug that is similar to marijuana. It is currently not illegal. The legislature is looking at making it illegal, but that won't be effective until July 2011.

Mr. Morgan stated that they have not found any place in Brigham City that is selling Spice, but there are convenience stores in Tremonton that are selling it off the racks and making a lot of money.

MOTION: Councilmember Ericson made a motion to approve the ordinance adopting restrictions on the manufacture, distribution, possession or use of synthetic cannabinoids as amended. The motion was seconded by Councilmember Marabella and unanimously carried.

Discussion on Youth Empowerment Team Funding

Bonnie Mortensen, Youth Empowerment Team (YET) Director, and Dr. Lloyd, Chair of the YET, joined Chief Tittensor at the table. The Chief explained that the YET has been funded for the last five years from a grant. The City applied for funding for another five years but was not awarded it.

Ms. Mortensen stated that there are unused funds from the grant and they can be used for administrative costs to wrap up the grant, such as reports. She cannot purchase any items with these funds.

Mayor Fife suggested using these funds to allow Ms. Mortensen to continue either full time for another month or part-time for two months while the City evaluates other options. Another option is to consolidate this position and the part-time Volunteer Coordinator position.

Councilmember Marabella suggested contacting past members of the Executive Committee to get feedback from each of them on what has worked and what has not. He felt that the bullying program at the Middle School was a very positive thing. His concern was that the City is in the middle of a budget year and there is no money unless another program is canceled.

Dr. Lloyd stated that if the City does the survey of past Committee members, he challenged them to really understand the Communities That Care system and what prevention science is. It is a key component of what this program is. He felt they would be able to keep the program going until the next budget year with the remaining grant money and combining it with the Volunteer Program.

Mayor Fife recommended he and Chief Tittensor work with Ms. Mortensen and the Committee to determine the best use of the remaining grant money until the next budget cycle.

MOTION: Councilmember Ericson made a motion to have the Mayor and Chief work together to determine the best use of the administrative dollars to close out the grant and make some

decisions to move forward. The motion was seconded by Councilmember Jensen and unanimously carried.

Request for Amendment to Deferral Agreement with Thomas Development

Mr. Larsen came forward and explained that the agreement that was previously approved by the Council assumed that all of the outstanding SID payments in the project area were for properties that were being purchased by Thomas Development. This is not the case. This amended agreement corrects that.

MOTION: A motion to amend the deferral agreement with Thomas Development as presented was made by Councilmember Ericson, seconded by Councilmember Marabella and carried.

Recommendation from the Airport Advisory Board Regarding Hiring of Consultant for Airport Master Plan

Mr. Fonnesebeck stated that the airport master plan is out of date. Without this Master Plan, the City would not have been able to do the \$4 million upgrades to the airport. The City received a grant to be used for a new Master Plan. They went out for bid and received six proposals and interviewed four companies. The Airport Advisory Board chose Armstrong Consultants out of Grand Junction, Colorado.

Airport Master Plans can take up to 15-20 months to complete. There will be a lot of involvement from the aviation public as well as the general public.

MOTION: Councilmember Ericson made a motion to accept the recommendation from the Airport Advisory Board to accept Armstrong Consultants as the airport consultant for the Airport Master Plan. The motion was seconded by Councilmember Marabella. Councilmember Jensen asked how much this project will cost. Mr. Fonnesebeck replied that the City has a grant for the Master Plan and the City's match is 5%, which is in the budget. The motion unanimously carried.

Capital Improvement Project 25-Year Plan

Mr. Leonard and Mr. Jones came to the table. Mr. Leonard stated that City departments currently prepare a six-year plan during each budget session. With all the infrastructure and electrical facilities the City has, the Mayor recommended to staff that a 25-year plan be prepared.

Jones & Associates updated the City's capital facilities plans in 2009. This covers a lot of the utilities as well as public safety and streets. So a lot of the core work has been completed, the only thing remaining is meeting with the departments and assembling the information.

Mr. Jones said their intent is to make a straightforward, simple document that shows potential sources of funding for each project and a quick reference map.

Councilmember Jensen asked if there will be anything in the plan for renewable energy. Mr. Jones said he is going to meet with all department heads and he will make sure this is covered.

MOTION: Councilmember Ericson made a motion to move forward with the capital improvement project 25-year plan, seconded by Councilmember Marabella and unanimously carried.

MAKING LIFE BETTER - DEPARTMENT REPORTS

Update on Automated Meter Readers - Mr. Fonnesebeck reported that the bid for this project was awarded to Whitaker Construction and Neptune Water Meters. The project will begin October 4. They will do one billing cycle at a time. They will start with Cycle 2 during the month of October, Cycle 1 in November, Cycle 3 in December. Cycle 4, which are the commercial customers, will be done as they are in the areas. Before they begin construction, Whitaker will put door hangers on residents' doors stating they will be shutting off water to their home for a short period of time in the next 3-5 days to replace their water meter. It typically takes 10-30

minutes to install the meter. They pull the old meter and install the new one and put a sensor on it. They will then drill a hole through the meter lid and the new sensor will attach on top of that. This new system is going to allow the City to read all the water meters real time. This will allow the City to detect leaks on the customer's side.

PUBLIC COMMENT

Larry Pierce - Mr. Pierce said he approached the Council last year about his hangar at the airport. There is a ditch behind the hangar that is supposed to carry water north into the field. However, the field to the north is higher than the ditch. West of the hangar is all field. His property becomes the "airport lake." This needs to be fixed before spring. The City graded it, but it just made a ditch out of it. Last spring was not a high water year, but the water came up to his door and started to come into his back door. It will cost him \$1184 for the first year for insurance and if there is a flood they will cancel. It is 250' from the drain box to where it needs to be hooked in to run the drain. Mr. Pierce said he can do it a lot quicker and a lot cheaper by boring into the sewer, but he did not think the City would want that. The only thing that saved him last year was the water came to the edge of his building and then followed the gravel to where his footings are to the gravel in the front where the asphalt is. This took the water away, but this cannot be depended on to happen every time. He told the Council he really needs a drain. He paid \$4,882 for impervious surface impact fee. He paid \$1,191 for pro-rated rent. He's paid \$2,387 this year for pro-rated rent. Where has that money gone?

Mayor Fife asked Mr. Fonnesbeck to meet with Mr. Pierce to come up with a solution.

A motion to adjourn to an Executive Session to discuss the purchase, exchange or lease of real property was made by Councilmember Ericson. The motion was seconded and carried unanimously. The Council to an Executives session at 8:58 p.m. The Council returned to an open at 9:15 p.m. and adjourned.